



*State of West Virginia*  
*Joe Manchin III*  
*Governor*

Office of the Governor  
State Capitol  
1900 Kanawha Blvd., East  
Charleston, WV 25305

Telephone: (304) 558-2000  
Toll Free: 1-888-438-2731  
FAX: (304) 342-7025  
[www.wv.gov.org](http://www.wv.gov.org)

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The Honorable Betty Ireland  
Secretary of State  
State of West Virginia  
State Capitol  
Charleston, West Virginia 25305

Dear Secretary Ireland:

Pursuant to the provisions of Section 51, Article VI of the Constitution of West Virginia, I hereby return Enrolled Committee Substitute for Senate Bill No. 125 approved with the following objections.

My first objection to the Bill is contained in the language found in TITLE I - GENERAL PROVISIONS. Sec. 3. Classification of appropriations, page 5 through page 7, line 76 through line 180, which states:

"In vesting the power of the purse with the Legislature, the founding fathers recognized the inherent political nature of budgeting and established the Legislature to function as a crucible for the venting and vetting of political tensions and ideas, the improvement of good ideas and the imperilment of bad ones. By design, each of the 134 legislators functions as a check and balance, if not contributor to, the policies and appropriations under his or her consideration. Also unique to the Legislative Branch is its division into committees, parties and caucuses and designation of individuals as minority and majority leaders and whips, each facilitating consideration of important and political ideas; its two houses, extensive rules, procedural requirements, committee structure and the executive veto, reduction and deletion powers, all designed to ensure prudence and ensnare imprudent proposals; the two-year election cycle of the House, staggered terms of the Senate and the size and geographical nature of Legislative districts, each contributing to the superior representative nature of this branch of government; and its function as a check and balance on the Executive, each of which contributes to the Legislature's unique ability to process these inherently political decisions. Unchecked and unlimited executive authority to modify the State budget through transfers to undesignated budget activities would not lend to minimizing waste, reducing spending and balancing the maintenance of taxes against the derived benefit and would circumvent the fundamental Constitutional design embodied in the doctrine of the separation of powers, the budget process itself and the protections provided within the Legislature's architecture. Even more fundamentally, such approach would serve to erode the very delegation of democracy.

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While bureaucrats possess extensive knowledge of their programs and populations, they are not qualified to determine the highest uses of the people's resources. Their views of the State are appropriately centric to their specific programs and roles, and their universes are appropriately small and contained. Bureaucrats tend to approach these decisions with a bias toward spending and enhancing their own programs and comforts. Bureaucrats are not accountable to the voters and do not make decisions within a forum designed for challenge, debate, consensus and regional representation. For these and other reasons the Governor's proposed *method* for rededicating monies saved due to efficiencies is hereby declined.

However, it continues to be the expectation of the Legislature that West Virginia's Governor and public managers will do everything in their power to improve the efficiency and effectiveness of State government. While providing the best possible value back to the citizens of the State should be the primary motive of every public official and employee, the Legislature hereby declares that in its formulation of the Fiscal Year 2008 budget and supplemental amendments to this 2007 budget, it will duly consider spending unit recommendations for alternate usage of efficiency savings when a spending unit can document an efficiency savings to one or more General Revenue line-items and justify its recommendation for an alternative use. The Legislative Auditor shall prescribe forms and procedures for spending units to recommend alternate uses, receive and disseminate these requests and otherwise administer these provisions. The purpose of making government more efficient is not merely to provide more resources to be spent on other initiatives. In making these recommendations for alternate usage of efficiency savings, public officials and employees shall be sensitive to the tax burden shouldered by West Virginia citizens and businesses and the many unmet needs affecting their health, safety and welfare. While the Legislature may be predisposed to granting a spending unit's recommendation, its consideration of the need for tax relief and the merit of other possible uses of these resources is absolutely indispensable and nondelegable.

In further exercise of its responsibilities, the Legislature includes in this budget certain appropriations in line-items which more specifically describe the purposes for which the appropriations are made than are described in the more general line-items proposed by the executive. In the event these more specific items or parts thereof are disapproved, the funds appropriated for those purposes may not be expended for any other purposes than those which were disapproved, except for such purposes as may be provided by enactment of a supplementary appropriation bill. The Constitution vests the power of the purse, the power to appropriate public funds, solely in the legislative branch of this State's government. The inclusion of more specific line-items in an appropriations bill is a means by which the Legislature effectively decreases items of appropriation proposed by the executive for other purposes. The exercise of the power of the executive to disapprove specific items or parts thereof of appropriations bills can not operate to increase appropriations of the money contained in those items for other purposes, a result which the executive may not achieve by either direct or indirect means under the Constitution of this State. The expenditure of funds for purposes other than those contained in a line-item disapproved by the Governor would be an unconstitutional appropriation of public funds and a usurpation of the power of appropriation reserved exclusively to the legislative branch. It is the intent of the Legislature to resist any encroachment of the power to appropriate devolved upon and entrusted to the legislative branch by the citizens of this State through their Constitution."

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I recognize and am certainly cognizant of the Legislature's integral role in the budgeting process in West Virginia, as well as the important structure and ability of the Legislature to make policy and fiscal decisions of this State. Additionally, the Legislature's dedication to fiscal discipline and its sensitivity of the tax burden shouldered by the citizens of West Virginia must be applauded. I must object, however, to the above-mentioned portion of the budget bill. This section improperly minimizes and unduly limits the role of the Executive Branch in formulating the State of West Virginia's budget. Each department and agency, through budget hearings and in the expertise that each possess in implementing the mandates established by the Legislature, provide invaluable insight to the budgeting process that cannot be minimized or ignored. Moreover, the Constitution grants the Governor significant powers in providing vetoes for items or parts of items of the budget. Because the above-mentioned passage could also be interpreted to limit the Governor's constitutional authority to veto items in the budget, the language cannot stand. Therefore, I am deleting the entire paragraphs contained in line 76 through line 180.

My second objection to the Bill is contained in the language found in Item No. 92, page 73 through page 75, line 44 through line 52, which states:

**"From the above appropriation, \$125,000 is for King Coal Highway Authority; \$125,000 is for Coal Field Expressway Authority; \$100,000 is for Coal Heritage Highway Authority; \$100,000 is for Coal Heritage Area Authority; \$25,000 is for Little Kanawha River Parkway; \$50,000 is for Midland Trail Scenic Highway Association; \$57,000 is for Shawnee Parkway Authority; \$100,000 is for Corridor G Highway Authority; \$125,000 is for Corridor H Authority; and \$200,000 is for repairs to Pennco Road."**

Pennco Road is a private road and not part of the state highway system. Directing the use of State Road Fund moneys for repairs to a non-state road would be a violation of the constitutional use of the State Road Fund. Therefore, I am deleting the phrase contained in line 52 "; and \$200,000 is for repairs to Pennco Road"

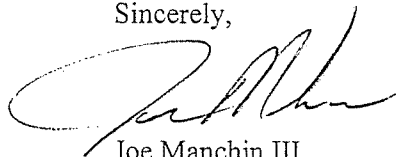
My third objection to the Bill is contained in the language found in Item 113, page 81, line 16 through line 18, which states:

**"From the above fund, the provisions of West Virginia Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein."**

This language violates the statutory authority afforded the Governor in the very statute it refers to since statutory law can be neither created or amended by or through the Budget Bill. Therefore, I am deleting the entire sentence contained in line 16 through line 18.

For the reasons stated herein, I have approved, with objections, Enrolled Committee Substitute for Senate Bill 125.

Sincerely,



Joe Manchin III  
Governor